

## **Chapter 11.36**

### **BODY ART ESTABLISHMENTS**

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## **Article 1.**

### **Definitions**

#### **11.36.010 Definitions generally.**

- A. For the purpose of this chapter, the words and phrases set forth are defined and shall be construed as hereinafter set out, unless it is apparent from the context that any such word or phrase has a different meaning.
- B. Whenever any word or phrase used in this chapter is not defined herein but is defined in state law or regulation or in another section of the Los Angeles County Code, the definition set forth in such state law or regulation or other section of the Los Angeles County Code is incorporated in this chapter as though set forth herein in full, and shall apply to such word and phrase used but not defined herein. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.020 Approved.**

“Approved” means meeting the minimum standards set forth and declared acceptable by the county health officer, the department, the State Department of Health Services or the United States Food and Drug Administration. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.030 Blood borne pathogen.**

“Blood borne pathogen” means any microorganisms that are present in human blood and that can cause disease in humans. Such pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HBC) and human immunodeficiency virus (HIV). (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.040 Blood borne pathogen standards.**

“Blood borne pathogen standards” means any recognized law, ordinance, regulation or standard containing requirements or recommendations, which has been adopted by the department and is applicable to the control of blood borne pathogens in the conduct of any activities regulated by this chapter. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.050 Body art.**

“Body art” means to adorn the body through the permanent application of a tattoo or insertion of an object, such as jewelry, into a hole for display purposes. Body art is the collective term for any single activity or combination of activities defined herein and in Sections 22.08.200, 22.08.020 and 22.08.160, respectively, as tattooing, body piercing or permanent cosmetics. It shall not include activities such as, or similar to, cutting of the skin or subcutaneous tissue, cutting or modification of cartilage or bone, implantation, branding, deep tissue penetration, threading, stapling or any other invasive procedure, whether or not such act would constitute the practice of medicine requiring licensure as a physician. (Ord. 99-0039 §§ 14 (part), 1999.)

### **11.36.060 Body art activity.**

“Body art activity” means any temporary or permanent application, process of application, sterilization, sanitization, cleaning, preparation, implementation or other procedure, utilized in the conduct of body art or any associated activity, which is necessary to the conduct of body art, as defined in this chapter. (Ord. 99-0039 §§ 14 (part), 1999.)

### **11.36.070 Body art establishment.**

“Body art establishment” means any temporary or permanent premises, business, location, facility, room, mobile facility, or any portion thereof, used or operated as a body piercing parlor as defined in Section 22.08.020, as a permanent cosmetics parlor as defined in Section 22.08.160, or as a tattoo parlor as defined in Section 22.08.200. (Ord. 99-0039 §§ 14 (part), 1999.)

### **11.36.080 Body art technician.**

“Body art technician” means a person that has completed an approved blood borne pathogen training course and is registered with the department to conduct body art activity, in a permitted body art establishment. (Ord. 99-0039 §§ 14 (part), 1999.)

### **11.36.090 Body art technician independent operator.**

“Body art technician independent operator” means a body art technician conducting body art activity at a permitted body art establishment, but who is not an employee of the owner of the body art establishment. (Ord. 99-0039 §§ 14 (part), 1999.)

### **11.36.100 Body art temporary event.**

“Body art temporary event” means an event, conference or meeting to demonstrate products, or provide a venue for an industry trade show or to educate body art technicians, where a body art technician conducts body art activity. A body art temporary event shall not exceed 30 consecutive days in a 90 day period at a location. (Ord. 99-0039 §§ 14 (part), 1999.)

### **11.36.110 Body piercing.**

“Body piercing” means the creation of an opening in the human body for purpose of inserting jewelry or other decorations. This includes, but is not limited to, creating such an opening in the ear, lip, tongue, nose, eyebrow or navel for the purpose of inserting jewelry or other decorations. (Ord. 99-0039 §§ 14 (part), 1999.)

### **11.36.120 Client.**

“Client” means any person who meets all legal requirements set forth in this chapter and has given informed consent to have body art activity performed upon his or her person. (Ord. 99-0039 §§ 14 (part), 1999.)

**11.36.130 Consent form.**

“Consent form” means a document provided by the body art establishment or body art technician independent operator to each person requesting that any body art activity be performed upon his or her person. (Ord. 99-0039 §§ 14 (part), 1999.)

**11.36.140 Contaminated.**

“Contaminated” means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on a substance or in or on an item. (Ord. 99-0039 §§ 14 (part), 1999.)

**11.36.150 Contaminated waste.**

“Contaminated waste” means any contaminated substance, including but not limited to any liquid or semi-liquid blood or body fluid or any material that would release potentially infectious material in a liquid or semi-liquid state if compressed, or any contaminated sharps, or any items that are caked with dried blood or other potentially infectious material and are capable of releasing these materials during handling. (Ord. 99-0039 §§ 14 (part), 1999.)

**11.36.160 County.**

“County” means the County of Los Angeles. (Ord. 99-0039 §§ 14 (part), 1999.)

**11.36.170 Department.**

“Department” means the Los Angeles County department of health services. (Ord. 99-0039 §§ 14 (part), 1999.)

**11.36.180 Departmental regulations.**

“Departmental regulations” means the regulations pertaining to body art activity and establishments promulgated by the department as currently written or as may from time to time be amended. When adopted by the department, these regulations are incorporated in and become part of this chapter. (Ord. 99-0039 §§ 14 (part), 1999.)

**11.36.190 Existing owner.**

“Existing owner” means an owner of a body art establishment operating on the effective date of the ordinance codified in this chapter.\* (Ord. 99-0039 §§ 14 (part), 1999.)

**11.36.200 Exposure control plan.**

“Exposure control plan” means a written plan that meets all requirements of Title 8 California Code of Regulations §§ 3203 and 5193, to minimize clients' and employees' risk of exposure to blood or potentially infectious material. (Ord. 99-0039 §§ 14 (part), 1999.)

\* *Ch. 11.36 is effective on July 1, 1999.*

#### **11.36.210 Exposure incident.**

“Exposure incident” means a person's eye, mouth, other mucous membrane, non-intact skin or blood coming in contact with potentially infectious material as a result of body art activity. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.220 Instrument.**

“Instrument” means approved equipment, devices, and components utilized to conduct body art activity, including but not limited to needles, needle bars, needle tubes, forceps, hemostats, tweezers, or other items used to insert pigment or dye, or to pierce, puncture or be inserted into any part of the human body, or to assist in such acts, for the intended purpose of making a tattoo or permanent hole. Such items also include studs, hoops, rings, or other decorative jewelry, materials or apparatuses. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.230 Manager.**

“Manager” means the owner or other person designated by the owner to be the owner's on-site representative in a body art establishment, who shall meet the criteria and comply with the provisions set forth in Section 11.36.440. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.240 Mobile body art establishment.**

“Mobile body art establishment” means a vehicle, conveyance or other mobile platform approved for use by the department as a body art establishment. (Ord. 99- 0039 §§ 14 (part), 1999.)

#### **11.36.250 Owner.**

“Owner” or “operator” means the person, persons or legal entity having legal ownership of a business operating as a body art establishment. Any reference in this chapter to "owning" means having existing owner status. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.260 Permanent cosmetics.**

“Permanent cosmetics” means any application of pigment to or under the skin of a person for the purpose of permanently or semi-permanently changing the color or appearance of the skin. This includes, but is not limited to, permanent or semi- permanent eyeliner, eye shadow, or lip color. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.270 Permanent hole.**

“Permanent hole” means a hole produced by piercing or puncturing any part of the body with instruments intended to leave an opening in body tissue in which a device or apparatus may be inserted. Permanent hole includes any body part newly pierced or punctured which is undergoing a healing process, and any piercing or puncture whether or not removal of the device or apparatus from the perforation would result in fusing of the tissue structures. (Ord. 99-0039



§§ 14 (part), 1999.)

**11.36.280 Potentially infectious material.**

“Potentially infectious material” means human body fluids, including but not limited to, semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, and any other body fluid that is visibly contaminated with blood such as saliva or vomitus, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids. (Ord. 99-0039 §§ 14 (part), 1999.)

**11.36.290 Registration.**

“Registration” means the process as set forth in Section 11.36.320 whereby persons wishing to be body art technicians file a completed registration form with the department as a prerequisite to conducting body art activities in any jurisdiction wherein this chapter is in force. Registration by the department shall not mean the registered body art technician has demonstrated to the department's satisfaction that the bearer has a level of competency sufficient to practice in this field. Registration shall remain valid for no more than three years. (Ord. 99-0039 §§ 14 (part), 1999.)

**11.36.300 Tattoo.**

“Tattoo” means to insert pigment, ink or dye under the surface of the skin of a person by pricking with a needle or otherwise, to permanently change the color or appearance of the skin or to produce an indelible mark or figure visible through the skin. (Ord. 99-0039 §§ 14 (part), 1999.)

**11.36.310 Temporary body art establishment.**

“Temporary body art establishment” means a location that is approved by the department as a body art establishment in conjunction with a temporary body art event. The temporary body art event shall be held for no more than 30 consecutive days in a 90 day period at a location. (Ord. 99-0039 §§ 14 (part), 1999.)

**Article 2.**

**General Requirements**

**11.36.320 Registration.**

- A. Every person conducting body art activity as defined in this chapter, or desiring to conduct such activity, on or after the effective date of the ordinance codified in this chapter,\* shall file with the department a completed registration form, accompanied by the applicable fee as set by law.
- B. No person may be registered unless he or she is at least 18 years of age.
- C. Every person registering with the department to conduct body art activities must comply with the provisions for registration established through departmental regulations.
- D. Failure to provide all information required by departmental regulations or submission of

false or misleading information shall make the registration invalid.

- E. The registrant shall be deemed registered with the department as a body art technician upon provision of a certificate of registration to the registrant by the department. Until such time as a certificate of registration is issued, the person is not authorized to conduct body art activity.
- F. Any registration issued by the department certifying that a person is registered with the department as a body art technician is nontransferable and is valid only for the person to whom it is issued.
- G. Registration shall be valid for three years from date of issuance unless made invalid earlier due to the registrant's failure to comply with departmental regulations. Upon expiration, any person desiring to continue to conduct body art activity must renew his or her registration and provide all required documentation, as specified in this section. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.330 Permits.**

- A. Every person owning a body art establishment shall, within six months of the effective date of the ordinance codified in this chapter,\* obtain a public health facility permit pursuant to the provisions of Article 3 of this chapter.
- B. Every person conducting body art activity shall, within six months of the effective date of this chapter,\* obtain a public health operator permit pursuant to the provisions of Article 3 of this chapter. (Ord. 99-0039 §§ 14 (part), 1999.)

### **Article 3.**

#### **Plan Review - Permit - Registration**

#### **11.36.340 Plan review.**

- A. No later than 60 days after the effective date of the ordinance codified in this chapter,\* an existing owner must submit to the department three sets of complete legible plans of his or her body art establishment, drawn to scale, which shall include all specifications required under this chapter. The department will review the plans and approve or reject them within a reasonable time of submission. Nothing in this section shall require that plans or specifications be prepared by anyone other than the applicant.
- B. A person proposing to build or remodel a body art establishment or modify any vehicle or conveyance to be a mobile body art establishment, shall submit to the department complete legible plans, drawn to scale, which shall include all specifications required under this chapter. The department will review the plans and approve or reject them within a reasonable time after submission. No jurisdiction in which this ordinance is effective shall issue a building or other permit to build a body art establishment or a mobile body art establishment or to remodel an existing body art establishment, mobile body art establishment or temporary body art establishment until it has received verification the department has completed such a plan review and given its approval. Nothing in this section shall require that plans or specifications be prepared by anyone other than the applicant. (Ord. 99-0039 §§ 14 (part), 1999.)

\* *Ch. 11.36 is effective on July 1, 1999.*

**11.36.350 Public health facility permit.**

- A. Each person owning a body art establishment shall obtain a public health facility permit by meeting the requirements enumerated in departmental regulations.
- B. Upon review and verification that the owner has met the requirements enumerated in departmental regulations, the department shall issue a public health facility permit to the owner.
- C. No person may conduct any body art activity in a body art establishment unless that facility has a valid public health facility permit issued by the department. However, an existing owner must obtain such a valid public health facility permit within six months of the effective date of this chapter.\*
- D. The department may at any time suspend or revoke the public health facility permit to operate as a body art establishment for failure to comply with any provision of this chapter.
- E. If a public health facility permit has been suspended or revoked by the department pursuant to this chapter, the permit may be reinstated by the department provided the department is satisfied that the cause for the suspension or revocation no longer exists and the condition of the body art establishment now meets the requirements for issuance of such public health facility permit pursuant to this chapter. The department may require the owner of such a body art establishment to make any changes necessary to comply with this chapter, satisfy any fines imposed pursuant to this chapter and to submit plans and specifications reflecting any required changes, as a condition of reinstating the public health facility permit.
- F. Any public health facility permit issued by the department to the owner of a body art establishment is nontransferable. The public health facility permit shall be valid for the approved facility only, and for the time period indicated, unless suspended or revoked. (Ord. 99-0039 §§ 14 (part), 1999.)

**11.36.360 Public health operator permit.**

- A. In addition to registering as set forth in Section 11.36.320, persons operating as a body art technician or a body art technician independent operator, or intending to do so, shall obtain a public health operator permit by filing a completed application form with the department and paying the required fee, and providing proof of registration as a body art technician with the department.
  - 1. During the year immediately following the effective date of this chapter,\* public health operator permits may be issued on a conditional basis. A person issued a conditional permit shall have up to six months from his or her date of application to provide the department with proof of successful completion of a blood borne pathogen training course that has been approved by the department. Failure to provide such proof within the prescribed time shall cause the person's conditional public health operator permit to be canceled forthwith.
  - 2. At all times after one year following the effective date of this chapter,\* each applicant must also provide the department with proof of successful completion of a blood borne pathogen training course that has been approved by the department.
- B. Upon successful completion of the application process described in subsection A of this section, the department shall issue a public health operator permit to the applicant.

\* *Ch. 11.36 is effective on July 1, 1999.*

- C. No person may conduct any body art activity in any jurisdiction adopting this chapter unless that person has a valid public health operator permit issued by the department.
- D. The department may at any time suspend or revoke the public health operator permit for failure to comply with any provision of this chapter.
- E. If a public health operator permit has been suspended or revoked by the department pursuant to this chapter, the permit may be reinstated by the department provided the department is satisfied that the cause for the suspension or revocation no longer exist and that the body art technician has met the requirements for issuance of such public health operator permit pursuant to this chapter. The department may require the body art technician to take any steps necessary to comply with this chapter, and satisfy any fines imposed pursuant to this chapter as a condition of reinstating the public health operator permit.
- F. Any public health operator permit issued by the department to a body art technician is nontransferable. The public health operator permit shall be valid for the approved body art technician only, and for the time period indicated, unless earlier suspended or revoked. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.370 Posting requirements.**

- A. The public health facility permit issued to the owner of any facility operating as a body art establishment must be posted and exhibited at all times in an area that is visible to the public and clients of said establishment.
- B. The public health operator permit issued to a body art technician must be posted and exhibited at all times in an area that is visible to the public and clients of any body art establishment in which the body art technician is conducting body art activity.
- C. Every person registered with the department as a body art technician shall at all times prominently post the certificate of registration adjacent to his or her workstation in an area that is readily visible to clients from that location.
- D. Every establishment permitted to conduct body art activity pursuant to this chapter shall have posted at all times a legible sign at least one inch in lettering, that provides the following information so as to be clearly visible to patrons entering the establishment:

Any public health concerns regarding this establishment should be directed to the Los Angeles County Department of Health Services Office: (the program office address and telephone number to be provided by the county health officer).

- E. Every establishment permitted to conduct body art activity pursuant to this chapter shall have posted at all times a legible sign in at least one inch lettering that provides the name of each body art technician conducting body art activities within the establishment in an area that is easily visible to the clients of said establishment.
- F. Every establishment permitted to conduct body art activity pursuant to this chapter shall have posted at all times a legible sign in at least one inch lettering in each restroom directing attention to the need for persons using the toilet to thoroughly wash their hands after such use.
- G. Every establishment permitted to conduct body art activity pursuant to this chapter shall have posted at all times a legible sign in at least two inch lettering at all workstations and cleaning

rooms or areas, indicating that smoking is prohibited. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.380 Permit and registration -- Reporting requirements.**

Every person having a public health permit or registration with the department under the provisions of this chapter shall report to the department any changes in status to the business or activities made reportable by departmental regulations within 15 days of the change. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.390 Permit -- Suspension and revocation and fines.**

- A. Any permit issued pursuant to this chapter may be suspended or revoked by the department and fines consistent with the provisions of this chapter may be imposed by the department for a violation of this chapter or any other violation of law or standard creating a risk to public health and safety, including any violation of the Los Angeles County Code, the California Health and Safety Code, the blood borne pathogen standard, or the exposure control plan of the body art establishment at which body art activity is conducted, or any combination of such violations.
- B. Whenever the department finds that a body art technician is not in compliance with the requirements of this chapter, or any law or standard affecting public safety, including but not limited to the Los Angeles County Code, the California Health and Safety Code, blood borne pathogen standard, or the exposure control plan of the establishment at which body art activity is conducted, or any combination thereof, a written notice to comply shall be issued to the body art technician. The notice to comply shall include a statement of the deficiencies found, set forth the corrective measures necessary for the body art technician to be in compliance with this chapter, provide a compliance date by which such corrective measures must be completed and inform the body art technician that failure to comply within the prescribed time may result in the imposition of any penalty provided for in this chapter, including suspension and/or revocation of any and all permits or registrations. The notice to comply shall also advise the body art technician of his or her right to an administrative review under the provisions of this chapter.
- C. Whenever the department finds that an owner is not in compliance with the requirements of this chapter, or any law or standard affecting public safety, including but not limited to the Los Angeles County Code, the California Health and Safety Code, the blood borne pathogen standard, or the exposure control plan of the establishment at which body art activity is conducted, or any combination thereof, a written notice to comply shall be issued to the owner. The notice to comply shall include a statement of the deficiencies found, set forth the corrective measures necessary for the owner to be in compliance with this chapter, provide a compliance date by which such corrective measures must be completed and inform the owner that failure to comply within the prescribed time may result in the imposition of any penalty provided for in this chapter, including suspension and/or registration of any and all permits or registrations. The notice to comply shall also advise the owner of his or her right to an administrative review under the provisions of this chapter.
- D. A written request for an administrative review, as specified in subsections B and C of this section, above, must be made by the noticed person within 15 calendar days of the compliance date set forth in the notice to comply or any extension thereof later granted by the department. Failure to request an administrative review within the prescribed time shall be deemed a waiver of the right to an administrative review. The administrative review shall

be held within 15 calendar days of the receipt of a written request for a review. Upon written request of an owner or body art technician or on its own motion, the department may advance or postpone the scheduled administrative review date, if good cause warrants such action.

- E. In the case of an administrative review, the department shall issue a written notice of decision to the subject person within five working days of the administrative review or waiver. In the event of suspension or revocation of any permit or registration, the notice of decision shall specify the acts or omissions found to be violations of this chapter and, in the case of a suspension, shall state the extent of a suspension. The notice of decision shall also state the reasons the body art technician's public health operator permit or an owner's public health facility permit has been suspended or revoked and the terms upon which such permit may be reinstated or reissued, if any.
- F. Notwithstanding any other provision of this chapter, if any immediate danger to the public health or safety is found or is reasonably suspected, unless the condition is corrected forthwith, the department may immediately suspend any permit or registration issued pursuant to this chapter, initiate a criminal complaint and/or impose any fine permitted by this chapter, pending a determination of an administrative review as provided herein. Immediate danger to the public health and/or safety shall include any condition, based upon inspection findings or other evidence, that can cause, or is reasonably suspected of causing, infection or disease transmission, or any known or reasonably suspected hazardous condition.
  - 1. Whenever a public health operator permit or public health facility permit issued pursuant to this chapter is immediately suspended or a fine is imposed as the result of an immediate danger to the public health or safety, the department shall issue to the permittee so suspended or fined, a written notice to comply setting forth the acts or omissions with which the permittee is charged, specifying the sections of the Los Angeles County Code, California Health and Safety Code, blood borne pathogen standard, or the exposure control plan of the establishment at which body art activity is conducted, or the combination of alleged violations, and informing the permittee of the right to an administrative review.
  - 2. At any time within 15 calendar days of service of such notice to comply, the permittee affected may request, in writing, an administrative review by the department to show cause why the imposed suspension or fine is unwarranted. The administrative review shall be held within 15 calendar days of the receipt of a request. A failure to request an administrative review within 15 calendar days shall be deemed a waiver of the right to such review.
  - 3. At any time prior to an administrative review or waiver thereof, the recipient of a notice to comply issued pursuant to this subsection F, may correct the deficiencies noted in the notice to comply and request a reinspection.
  - 4. In the case of a request for reinspection as set forth in subsection F3, above, the department shall reinspect as soon as practical and, in no event, later than the end of the third business day following the request for reinspection. In the event the deficiencies noted in the notice to comply are corrected to the satisfaction of the health officer, the department has discretion to reinstate or modify any suspension of a permit and cancel or modify any fine imposed pursuant to this subsection F. If the department determines that the deficiencies noted in the notice to comply have been corrected, but the department elects not to reinstate the suspension or cancel the fine imposed pursuant to this subsection F, the department shall notify the permittee of this decision in writing. The

permittee shall have 15 calendar days from receipt of said notification to seek an administrative review of this decision.

5. If upon reinspection, any deficiency noted in a notice to comply is not corrected to the satisfaction of the department, the department's decision regarding the deficiency may be the subject of an administrative review. The time for requesting such administrative review remains 15 days from service of the original notice to comply.
- G. The department may, after an administrative review or waiver thereof, modify, suspend, or revoke or continue all such action previously imposed upon a public health operator permit or public health facility permit issued pursuant to this chapter or impose any fine allowed herein for violations of this chapter or any other laws or standards affecting public health and safety, including but not limited to the Los Angeles County Code, the California Health and Safety Code, the blood borne pathogen standard, or the exposure control plan of the establishment at which body art activity is conducted, or any combination thereof, or for interference with a county health officer's performance of duty.
- H. A public health operator permit issued or a public health facility permit issued pursuant to this chapter may be reissued or reinstated, if the department determines that the conditions which prompted the suspension or revocation no longer exist and any fine imposed pursuant to this chapter has been satisfied.
- I. A body art technician whose public health operator permit is suspended or revoked shall cease all body art activity unless and until the permit is reinstated or reissued.
- J. In the event a public health facility permit is suspended or revoked, the owner of the body art establishment shall cease to operate said facility as a body art establishment unless and until the public health facility permit is reinstated or reissued. (Ord. 99-0039 §§ 14 (part), 1999.)

## **ARTICLE 4.**

### **Compliance and Enforcement**

#### **11.36.400 Compliance with chapter provisions required.**

- A. The provisions of this chapter are in full force and effect in the county and in every municipal jurisdiction in the county adopting this chapter.
- B. Except as exempted under this chapter, every person who conducts a body art activity, as defined in this chapter, including any person owning or operating any business or establishment regulated by this chapter, must comply with the provisions of this chapter. Each person receiving services resulting from activities regulated by this chapter must also comply with the provisions of this chapter.
- C. Any person who operates a body art establishment without a valid public health facility permit, any person conducting any body art activity without a valid public health operator permit, unless exempted pursuant to this chapter, or any person, who violates any law, ordinance or regulation governing any activity regulated by this chapter, or who, upon demand of the county health officer, refuses or neglects to conform to a lawful order or directive of a county health officer pertaining to conduct regulated by this chapter, is guilty of a misdemeanor, punishable by fine of \$1,000.00, imprisonment in the county jail for a period not to exceed six months, or both. Each such act is punishable as a separate offense, and each subsequent day that an act continues constitutes a separate act punishable as a

separate offense.

- D. Operating a body art establishment in violation of any provision of this chapter constitutes a misdemeanor, punishable as provided herein.
- E. Except as specified in an approved variance issued pursuant to subsection F of this section, it is unlawful for any person to conduct any body art activity in any manner not conforming with the provisions of this chapter.
- F. Any person seeking to conduct any activity or operate an establishment regulated by this chapter in a nonconforming manner must apply to the department for a variance. Such application must include a detailed description of the proposed nonconforming activity, including but not limited to describing all involved equipment, instruments, processes, procedures and methods. The application must also include any available documentation that verifies that the nonconforming activity, when conducted as proposed, provides adequate safeguards to the public health and safety. In addition, the person seeking a variance must provide a pre-addressed envelope with postage paid. The application will be reviewed and approved or denied by the department, and the decision will be mailed to the applicant using the provided envelope. No person may conduct any activity or operate an establishment regulated by this chapter in a nonconforming manner without having an approved variance from the department in his or her possession. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.410 Communicable disease control.**

If the department has reasonable cause to suspect a communicable disease is, or may be transmitted by any person conducting activities regulated by this chapter, or by any use of contaminated equipment, or by other unsanitary or unsafe conditions which may adversely impact the public health and safety, the department may do any or all of the following:

- A. Issue an order excluding from the permitted body art establishment any person responsible for transmitting a communicable disease, or reasonably believed to be responsible for transmitting a communicable disease, or reasonably believed to pose a substantial risk of transmitting a communicable disease, until the department determines there is no further risk to the public health and safety;
- B. Issue an order to immediately suspend the public health facility permit issued to the owner of the body art establishment until the department determines there is no further risk to the public health and safety;
- C. Issue an order to an owner, an employee or a client of a body art establishment, to provide information reasonably deemed necessary to prevent the spread of communicable disease. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.420 Health officer -- Enforcement.**

- A. The county health officer may enter and inspect any body art establishment or enter and inspect any location suspected of conducting any activity regulated by this chapter, and, for purposes of enforcing this chapter, the county health officer may issue notices and impose fines therein and take possession of any sample, photograph, record or other evidence, including any documents bearing upon the body art establishment's or body art technician's compliance with the provision of the chapter. Such inspections may be conducted as often as



necessary to ensure compliance with the provisions of this chapter. The county health officer shall prepare a written report of the results of the inspection and provide a copy of such report to the owner or body art technician, as appropriate. In the event any person is cited in the report for a violation of this chapter, the cited person will be provided a notice to comply by either personal service or by first class mail to the cited person's last known address or to his or her place of employment.

- B. Based upon inspection findings or other evidence, the county health officer may do any of the following:
  - 1. Impound any equipment, device or supply that is found to be unsanitary, lacking any required approval, or otherwise in such condition that it poses a substantial risk to endanger the public health and safety;
  - 2. Attach a tag to any equipment, device or supply that is found to be unsanitary, lacking any required approval, or is otherwise in such condition that it poses a substantial risk to endanger the public health and safety, which designates the tagged item as unauthorized for use. No person shall use the tagged item or move or remove the tag without authorization from the department. The department shall commence an administrative review within 30 days of an action impounding or tagging an item to assess the propriety of such action, or release said impounded item or remove the tag from said tagged item.
- C. Within 90 days of the enactment of this chapter,\* the department shall establish departmental regulations, a copy of which shall be made available at no charge, upon request. As determined necessary by the department, the department may, from time to time, amend the departmental regulations. A copy of amendments shall also be made available at no charge, upon request. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.430 Owner responsibility.**

The owner of a body art establishment is responsible for any violation by any person who does any body art activity with the owner's consent in the owner's body art establishment whether such person is an employee or a body art technician independent operator. Any such body art activity done with the owner's actual or constructive knowledge is presumed to be done with the owner's consent. (Ord. 99- 0039 §§ 14 (part), 1999.)

#### **11.36.440 Manager -- Requirements.**

A manager must have successfully completed the blood-borne pathogen training required for registrants under this chapter, be familiar with the provisions of this chapter and be capable of communicating the provisions of this chapter to employees and clients of the body art establishment wherein he or she acts as manager. A manager shall be present in the body art establishment during business hours and at all times during which body art activity is conducted therein. The manager shall immediately identify himself or herself to any county health officer entering the body art establishment on official county business. In the owner's absence, the manager shall be authorized to accept on behalf of the owner any notice issued to the owner pursuant to the provisions of this chapter. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.450 Facilities held in common or shared.**

A violation of any provision of this chapter occurring in an area of a facility held in common or

shared by more than one body art establishment, which is related to the condition of the facility or any requirement for obtaining or maintaining a public health facility permit, shall be deemed a violation for which the owner of each such body art establishment is responsible. (Ord. 99-0039 §§ 14 (part), 1999.)

\* *Ch. 11.36 is effective on July 1, 1999.*

#### **11.36.450 Facilities held in common or shared.**

A violation of any provision of this chapter occurring in an area of a facility held in common or shared by more than one body art establishment, which is related to the condition of the facility or any requirement for obtaining or maintaining a public health facility permit, shall be deemed a violation for which the owner of each such body art establishment is responsible. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.460 Noncompliance with county health officer -- Injunctive relief.**

Any act or failure to act which is a violation of this chapter may be the subject of a civil action to enjoin the person so acting or failing to act to conform his or her conduct to the provisions of this chapter. A civil action to enforce the provisions of this section may be brought by the county counsel, the district attorney or any person directly affected by said failure to comply with the provisions of this chapter. The filing and prosecution of such an action shall, in no way, limit the authority or ability to impose other requirements of this chapter or penalties enumerated hereunder. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.470 Exemptions.**

- A. A physician licensed by the state of California under the Business and Professions Code, Chapter 5 (commencing with Section 2000 of Division 2) who utilizes body art activities as part of patient treatment is exempt from the registration and permitting requirements of this chapter.
- B. A person who exclusively engages in the piercing of the leading edge or earlobe of the ear shall be exempt from the permitting and registration requirements of this chapter, provided he or she does the following:
  - 1. Performs the procedure through the use of an approved ear perforating mechanical device to force the single-use stud or single-use needle through the tissue of the ear; and
  - 2. Utilizes a sterile, disposable, single-use stud or single-use solid needle. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.480 Severability.**

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter or the application of such provision to other persons or circumstances shall not be affected thereby. (Ord. 99- 0039 §§ 14 (part), 1999.)

## **Part 2.**

### **Operations**

#### **Article 1.**

#### **Exposure Control Plan and Reporting**

##### **11.36.490 Exposure control plan.**

The owner of every body art establishment shall provide a written exposure control plan, approved by the department, which shall be applicable to all those who perform body art activities within said establishment, describing how the requirements of this chapter will be implemented. The exposure control plan shall meet requirements established in departmental regulations. (Ord. 99-0039 §§ 14 (part), 1999.)

##### **11.36.500 Reporting requirements -- Complications.**

All infections, complications or diseases resulting from the body art activity which become known to the owner or body art technician shall be reported to the department by the informed person within 24 hours of acquiring such knowledge. Should department offices be closed at such times as to make notification within 24 hours impossible, the informed person shall mail written notification to the department within 24 hours of acquiring such knowledge and follow this by providing the department with oral notification within five working days of acquiring the knowledge. (Ord. 99-0039 §§ 14 (part), 1999.)

##### **11.36.510 Equipment and instruments.**

All equipment and instruments utilized in conducting body art activity shall be used and maintained in accordance with departmental regulations. (Ord. 99-0039 §§ 14 (part), 1999.)

##### **11.36.520 Record maintenance.**

- A. The owner of the body art establishment shall maintain records as required by departmental regulations.
- B. Upon cessation of business, the owner of the body art establishment shall forward to the department copies of all records maintained pursuant to this chapter or other departmental policies. Said copies must be provided to the department within 30 calendar days of closure. The revocation of a public health facility permit issued to an owner of a body art establishment shall be deemed a cessation of business for purposes of this subsection upon exhaustion or waiver of the rights to appeal such revocation. (Ord. 99-0039 §§ 14 (part), 1999.)

## **Article 2.**

### **Clients**

#### **11.36.530 Application for body art procedure -- Consent form.**

- A. All persons desiring a body art activity shall complete an application for body art activity and a consent form, which shall be provided by the establishment or body art technician independent operator and which must meet the requirements established in departmental regulations. It is the responsibility of the body art technician or body art technician independent operator to ensure the prospective client completes the form and initials it in such manner as to fully demonstrate that he or she has been informed of the risks and side effects directly and indirectly associated with the body art activities requested and gives his or her informed consent to have the contemplated activity performed.
- B. The body art technician shall advise the client orally of all information contained on the application and consent form prior to the client completing and initialing the consent form and prior to commencing any body art activity. The body art technician shall explain all aftercare instructions. The client shall indicate receipt of oral and written aftercare instructions by initialing the consent form in the appropriate box or area. Upon completion of the body art activity, the body art technician shall repeat the after care instructions and precautions to the client, and the client shall initial and date at the appropriate place on the consent form to indicate this has occurred.
- C. The establishment shall retain the original of the completed application for body art activity and consent form, and a copy shall be provided to the client. (Ord. 99- 0039 §§ 14 (part), 1999.)

#### **11.36.540 Restricted clients.**

Nipple and genital piercing shall not be performed on any person under 18 years of age. Tattoos and permanent cosmetics shall not be applied to any person under 18 years of age, except when authorized by a physician and performed with the consent and in the presence of the person's parent or guardian. Persons under 18 years of age may receive body piercing to body parts other than nipples or genitalia provided the body piercing is performed with the consent and in the presence of the person's parent or guardian. For any procedure restricted under this section to persons age 18 years of age or older or requiring the presence and consent of the person's parent or guardian, both the minor and his or her parent or guardian shall provide a valid picture identification, provide proof of parentage or legal guardianship and complete a consent form which conforms with the requirements established in departmental regulations.

Tattooing, permanent cosmetics, or body piercing shall not be performed on skin surfaces which have sunburn, rash, pimples, infection, open lesions, mole, or manifest any evidence of unhealthful conditions, without a physician's written statement authorizing the body art activity under such condition.

Body art activity shall not be performed on any person who, in the opinion of the body art technician, has impaired judgement due to use of drugs or alcohol or for any other reason. (Ord. 99-0039 §§ 14 (part), 1999.)

### **Article 3.**

#### **Procedure**

##### **11.36.550 Technician condition.**

- A. No body art technician whose judgment is impaired for any reason shall perform any body art activity while in such condition.
- B. No body art technician affected with a rash, infection, boils, infected wounds, open sores, abrasions, keloids, weeping dermatological lesions, or acute respiratory infection shall conduct any body art activity or work in any area of a body art establishment in any capacity in which there is a likelihood that such person could contaminate instruments, equipment, or surfaces or come in contact with another person. (Ord. 99-0039 §§ 14 (part), 1999.)

##### **11.36.560 Procedures and preparation.**

Body art activities shall be conducted in accordance with the sanitation and preparation procedures set forth in departmental regulations. (Ord. 99-0039 §§ 14 (part), 1999.)

##### **11.36.570 Hepatitis B vaccination status -- Declination.**

A body art technician shall make available upon request his or her hepatitis B vaccination information as required by departmental regulations. (Ord. 99-0039 §§ 14 (part), 1999.)

### **Article 4.**

#### **Restrictions**

##### **11.36.580 Prohibited procedures and activities.**

It is a violation of this chapter for any person to perform or conduct any activities or procedures upon any person that endanger the health or safety of that person, regardless of the consent of the recipient.

An invasive procedure or activity, whether or not such procedure or activity constitutes the practice of medicine under the applicable law, endangers the recipient's health and safety unless performed by a person possessing medical expertise. Such prohibited procedures and activities include but are not limited to activities or procedures requiring an injection, cutting of skin or subcutaneous tissue or bone, implantation, branding, deep tissue penetration, threading, stapling, suturing, stitching or pocketing of skin or tissue, or any procedure to reduce the size of or close an orifice, or remove or reduce the size of any skin, cartilage, tissue, organ, or appendage or placement of chemicals or substances onto the skin for purposes of scarring or keloid formation or insertion of chemicals or other solutions into or under the skin surface.

Any such procedure or activity shall be conducted only by a licensed medical doctor or by a person specifically authorized by law to conduct the procedure or activity and only when otherwise permitted by law. Such procedure or activity shall only be conducted at a facility

approved for the conduct of such procedure or activity by the appropriate authority under the applicable laws. Further, no such procedure or activity shall be conducted by a body art technician unless he or she is specifically authorized by law to perform such procedure or activity.

It is a violation of this chapter for any person to use in the conduct of body art activity or dispense any drug, chemical, agent or device that requires a licensed medical practitioner's authorization or prescription for use, application or to dispense, without such medical practitioner's authorization or prescription. (Ord. 99-0039 §§ 14 (part), 1999.)

### **Part 3.**

#### **Mobile Body Art Establishments**

##### **11.36.590 General requirement.**

In addition to complying with all of the other requirements of this chapter, mobile body art establishments and body art technicians conducting body art activity from a mobile body art establishment shall also comply with all of the provisions of this Part 3. (Ord. 99-0039 §§ 14 (part), 1999.)

##### **11.36.600 Vehicle plan check requirements.**

- A. A person applying for a public health facility permit to use a vehicle as a mobile body art establishment shall submit detailed plans and specifications of the vehicle to the department for approval. The vehicle shall be made available to the department for inspection, at a time and place prescribed by the department, prior to issuance of a public health facility permit. The applicant shall pay all required fees to the department at the time of application.
- B. Department approval of a vehicle shall be valid for one year, unless modifications are made to the vehicle after the date of approval, in which case the owner must reapply in accordance with the provisions of this chapter. (Ord. 99-0039 §§ 14 (part), 1999.)

##### **11.36.610 Restricted use.**

The mobile body art establishment shall be used only for the purpose of performing body art activities at a body art temporary event. No habitation or cooking is permitted inside the vehicle. (Ord. 99-0039 §§ 14 (part), 1999.)

##### **11.36.620 Equipment.**

A mobile body art establishment shall be equipped in accordance with and otherwise meet all requirements of departmental regulations. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.630 Body art temporary event requirements.**

At least 30 days in advance of the event, any person requesting to use a vehicle at a body art temporary event for the purpose of conducting body art activity shall submit detailed plans and specifications of the event, as required by departmental regulations, to the department for approval. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.640 Sponsor requirements.**

At least 30 days in advance of the event, a body art temporary event sponsor that is providing space at an event for a mobile body art establishment shall submit detailed plans and specifications of the event, as required by departmental regulations, to the department. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.650 Permit requirements.**

- A. A public health facility permit shall only be issued to the owner of a mobile body art establishment that meets department standards and otherwise conforms to the provisions of this chapter, and such permit shall only be issued to authorize body art activities in conjunction with a body art temporary event. The permit period may not exceed 30 consecutive days or the duration of the event, whichever is the shorter period of time. Multiple public health facility permits shall not be issued to an owner to operate a mobile body art establishment for any period of time totaling more than 30 consecutive days in any 90 day period. A separate public health facility permit shall be required for each body art temporary event. The public health facility permit shall not be transferable from one mobile body art establishment to any other body art establishment.
- B. An unpermitted body art technician desiring a public health operator permit to conduct body art activities at a temporary body art event shall obtain a permit under the provisions of this chapter at least 30 days in advance of the temporary body art event. No body art activity may be conducted at any mobile body art establishment by any person who has not obtained a public health operator permit pursuant to the provisions of this chapter. Such public health operator permit is valid only for conducting body art activity in mobile body art establishments approved by the department and only for such dates and times that the department has approved such an establishment for a permit.
- C. A body art technician holding a valid public health operator permit issued by the department who intends to conduct body art activity at a temporary body art event must notify the department in writing at least 15 days in advance of the temporary body art event that he or she intends to conduct body art activity at such event, provide the name of the owner of the mobile body art establishment in which the body art activity will be conducted and specify the body art activity he or she intends to conduct.
- D. The owner of a mobile body art establishment shall be responsible for ensuring compliance with all other applicable regulations and requirements, including, but not limited to, zoning, permit and business license requirements.
- E. All establishment and operator permits and other information required by this chapter to be posted shall be posted in clear view of the clients. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.660 Operating requirements.**

Body art technicians conducting any body art activity in a mobile body art establishment shall do so in conformance with the provisions of this chapter. All such body art activity shall be conducted in a mobile body art establishment that has onboard a public health facility permit issued by the department valid for that vehicle, time and place. No such body art activity may be performed outside of the enclosure of the mobile body art establishment. Mobile body art establishments shall provide full protection from contamination, filth, and debris to all instruments, equipment, devices, surfaces, clients and body art technicians. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.670 Record maintenance.**

The operator must maintain all records and documents in accordance with the provisions established in departmental regulations. (Ord. 99-0039 §§ 14 (part), 1999.)

### **Part 4.**

#### **Temporary Body Art Establishments**

#### **11.36.680 General requirement.**

In addition to complying with all of the other requirements of this chapter, temporary body art establishments and body art technicians conducting body art activity from a temporary body art establishment shall also comply with all of the provisions of this Part 4. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.690 Event requirements.**

At least 30 days in advance of the event, any person requesting approval to conduct body art activity in conjunction with a body art temporary event shall submit detailed plans and specifications of the event, as required by departmental regulations, to the department for approval. The person requesting such approval must meet all requirements established in departmental regulations for a body art temporary event. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.700 Sponsor requirements.**

A body art temporary event sponsor that is providing space at an event for a temporary body art establishment shall submit detailed plans and specifications of the event in accordance with departmental regulations to the department at least 30 days prior to commencement of the event. The sponsor must also meet all other requirements established in departmental regulations for temporary body art events. (Ord. 99-0039 §§ 14 (part), 1999.)



#### **11.36.710 Permit requirements.**

- A. A public health facility permit shall only be issued to the owner of a temporary body art establishment that meets department standards and otherwise conforms to the provisions of this chapter. Such permit shall only be issued to authorize body art activities in conjunction with a body art temporary event. The permit period may not exceed 30 consecutive days or the duration of the event, whichever is the shorter period of time. Multiple public health facility permits shall not be issued to an individual to operate a temporary body art establishment for any period of time totaling more than 30 consecutive days in any 90 day period. A separate public health facility permit shall be obtained for each body art temporary event. The public health facility permit shall not be transferable from one temporary body art establishment to any other body art establishment.
- B. An unpermitted body art technician desiring a public health operator permit to conduct body art activities in a temporary body art establishment shall obtain a permit under the provisions of this chapter at least 30 days in advance of the temporary body art event. No body art activity may be conducted at any temporary body art establishment by any person who has not obtained a public health operator permit pursuant to the provisions of this chapter. Such public health operator permit is valid only for conducting body art activity in temporary body art establishments approved by the department and only for such dates and times that the department has approved such an establishment for licensure.
- C. A body art technician holding a valid public health operator permit issued by the department who intends to conduct body art activity at a temporary body art event must notify the department in writing at least 15 days in advance of the temporary body art event that he or she intends to conduct body art activity at such event, provide the name of the owner of the temporary body art establishment in which the body art activity will be conducted and specify the body art activity he or she intends to conduct.
- D. The owner of a temporary body art establishment shall be responsible for ensuring compliance with all other applicable regulations and requirements, including, but not limited to, zoning, permit and business license requirements.
- E. All establishment and operator permits and other information required by this chapter to be posted shall be posted in clear view of the patrons. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.720 Operating requirements.**

Body art technicians conducting any body art activity in a temporary body art establishment shall do so in conformance with the provisions of this chapter. All such body art activity shall be conducted in a temporary body art establishment that has a public health facility permit issued by the department valid for that establishment, time and place. No such body art activity may be performed outside of the temporary body art establishment. Temporary body art establishments shall provide full protection from contamination, filth, and debris to all instruments, equipment, devices, surfaces, clients and body art technicians. Body art activities shall not be conducted in an outdoor environment. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.730 Record maintenance.**

The operator must maintain all records and documents in accordance with all applicable

provisions in this chapter. (Ord. 99-0039 §§ 14 (part), 1999.)

## **Part 5.**

### **Exposure Control Training**

#### **11.36.740 Blood borne pathogen training course -- Requirements.**

Any course taken by a person to fulfill the requirements set forth in this chapter relating to exposure control or blood borne pathogen training for registration with the department as a body art technician shall be approved by the department and meet the minimum requirements established in departmental regulations. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.750 Blood borne pathogen training course -- Examination.**

Any person desiring to register with the department as a body art technician shall complete a blood borne pathogen training course approved by the department and demonstrate knowledge of the required subjects through submission of documentation of attendance and completion of the course, and provide proof that he or she achieved a passing grade of 70 percent or more on the final examination. (Ord. 99-0039 §§ 14 (part), 1999.)

#### **11.36.760 Blood borne pathogen training course -- Provider.**

- A. Any person desiring department approval for purposes of this chapter of a training course curriculum for exposure control training or blood borne pathogen training shall make application to the department as follows: the applicant shall provide to the department a copy of a the course outline, a sample lesson plan, a statement of the examination method, a sample examination and any other documentation necessary for the department to evaluate the course to ensure the course complies with all applicable provisions of this chapter. Applicants shall be notified by the department within 30 days of application of the department's decision on the approval or rejection of the course.
- B. The course instructor must possess a high level of expertise in all areas covered by the training program and be otherwise qualified to conduct the training. (Ord. 99-0039 §§ 14 (part), 1999.)

## **Part 6.**

### **Civil Fines**

#### **11.36.770 Civil fines.**

In addition to any other penalty provided for under this chapter, consistent with the process set forth herein for notice and administrative review, the department may impose a fine on persons violating any provision of this chapter or any law, regulation or standard incorporated into this chapter. The department may impose a fine upon such violators in an amount not to exceed \$500.00 per violation, as appropriate. The imposition of such fines shall, in no way, limit the authority or ability to impose other requirements of this chapter or seek other remedies against

alleged violators. (Ord. 99- 0039 §§ 14 (part), 1999.)

**11.36.780 Amount.**

In establishing the amount of the fine for each violation, the department will consider the following:

- A. The gravity and magnitude of the violation;
- B. The violator's previous record of complying or of failing to comply with the provision of this chapter;
- C. The violator's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and,
- D. Any other considerations the department deems appropriate. (Ord. 99- 0039 §§ 14 (part), 1999.)

**11.36.790 Effect on permits.**

- A. All fines imposed pursuant to this chapter must be satisfied in the manner prescribed by the department before a permit issued under this chapter to the violator may be reinstated or reissued.
- B. Failure to satisfy a fine imposed pursuant to this chapter in the manner prescribed by the department may result in suspension or revocation of the public health operator permit or public health facility permit issued to the violator. (Ord. 99- 0039 §§ 14 (part), 1999.)

**Part 7.**

**Repeal Provision**

**11.36.800 Repeal.**

The provisions of this chapter shall remain in effect until the enactment of state laws or the promulgation of state regulations that control the conduct of body art activity, as defined herein. Upon the effective date of such enactment or promulgation, to the extent any provision of this chapter conflicts or is preempted by said enactment or promulgation, said conflicting or preempted provision is repealed in its entirety. (Ord. 99-0039 §§ 14 (part), 1999.)